

**REDACTED**

## Saskowski, Ronald

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**From:** Miller, Scott  
**Sent:** Friday, June 12, 2015 9:45 AM  
**To:** Saskowski, Ronald  
**Subject:** FW: PRP Update  
**Attachments:** SMSwitherspoon 104e (3).doc

Hello Ron,  
Please save this to SEMS for Smokey Mountain Smelters.  
Thank you,  
Scott

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**From:** Jackson, Felicia  
**Sent:** Thursday, June 11, 2015 10:49 AM  
**To:** Miller, Scott  
**Subject:** RE: PRP Update

The signed and dated letter was given to records on Tuesday of this week along with the green card. Attach is the unsigned letter.

*Felicia Jackson*

Environmental Protection Specialist  
SEIMB  
U.S. EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
Direct: 404-562-8894  
Fax: 404-562-8842  
<mailto:Jackson.Felicia@epa.gov>

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**From:** Miller, Scott  
**Sent:** Thursday, June 11, 2015 10:39 AM  
**To:** Jackson, Felicia  
**Subject:** RE: PRP Update

Also, I checked SEMS for Smokey Mountain Smelter and was unable to locate the 104(e) letter to Witherspoon. Could you forward that to me?

Thanks,  
Scott

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**From:** Jackson, Felicia  
**Sent:** Thursday, June 11, 2015 10:36 AM  
**To:** Miller, Scott  
**Subject:** RE: PRP Update

I will.

*Felicia Jackson*

Environmental Protection Specialist  
SEIMB

U.S. EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
Direct: 404-562-8894  
Fax: 404-562-8842  
<mailto:Jackson.Felicia@epa.gov>

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**From:** Miller, Scott  
**Sent:** Thursday, June 11, 2015 10:35 AM  
**To:** Jackson, Felicia  
**Subject:** RE: PRP Update

Great! Attached is a draft presentation with an Enforcement slide. Can you take a look at it and tell me how you would like it updated?  
Thanks,  
Scott

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**From:** Jackson, Felicia  
**Sent:** Thursday, June 11, 2015 10:32 AM  
**To:** Miller, Scott  
**Subject:** RE: PRP Update

No problem.

*Felicia Jackson*

Environmental Protection Specialist  
SEIMB

U.S. EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
Direct: 404-562-8894  
Fax: 404-562-8842  
<mailto:Jackson.Felicia@epa.gov>

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**From:** Miller, Scott  
**Sent:** Thursday, June 11, 2015 10:30 AM  
**To:** Jackson, Felicia  
**Subject:** RE: PRP Update

Awesome, thank you. Would you have some time to give a short update on our PRP recruitment efforts on Thursday, June 18 at 1:30 p.m. when we provide a Proposed Plan briefing to Franklin on the Site?  
Scott

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**From:** Jackson, Felicia  
**Sent:** Thursday, June 11, 2015 10:29 AM  
**To:** Miller, Scott  
**Subject:** RE: PRP Update

We sent a letter to Whitterspoon and received the green card on June 1<sup>st</sup>. No other letters have gone out.

*Felicia Jackson*

Environmental Protection Specialist  
SEIMB  
U.S. EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
Direct: 404-562-8894  
Fax: 404-562-8842  
<mailto:Jackson.Felicia@epa.gov>

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**From:** Miller, Scott  
**Sent:** Thursday, June 11, 2015 10:11 AM  
**To:** Jackson, Felicia  
**Subject:** PRP Update

Good morning, Felicia,  
Have other 104(e) letters gone out to parties at the Smokey Mountain Smelters Site?

Thank you,  
Scott Miller  
Remedial Project Manager  
Superfund Restoration & Sustainability Section  
U.S. EPA Region 4  
61 Forsyth Street, SW  
Atlanta, GA 30303  
(404) 562-9120  
fax: (404) 562-8896

**INFORMATION REQUEST LETTER**  
**URGENT LEGAL MATTER**  
**PROMPT REPLY REQUESTED WITHIN 30 DAYS**  
**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Mr. David Witherspoon

(b) (6)

SUBJ: Request for Information Pursuant to Section 104 of CERCLA for the Smokey Mountain Smelters Superfund Site located in Knoxville, Knox County, Tennessee

Dear Mr. Witherspoon:

The purpose of this letter is to request that you respond to the enclosed Information Request. The U.S. Environmental Protection Agency is currently investigating the release or threatened release of hazardous substances, pollutants or contaminants or hazardous wastes on or around the Smokey Mountain Smelters Superfund Site (the Site). This investigation requires inquiry into the identification, nature and quantity of materials generated, treated, stored or disposed of at, or transported to, the Site and the nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from the Site.

**SITE BACKGROUND**

The Site is located at 1508 Maryville Pike (State Route 33) near Knoxville, Knox County, Tennessee. The Site operated as a secondary aluminum smelter and is approximately 13 acres in size. The EPA believes you may have information about operations of the facilities at and near the Site that may assist the EPA in its investigation.

**INFORMATION REQUEST**

The EPA seeks your cooperation in providing information and documentation in relation to the contamination of the Site. Pursuant to the authority of CERCLA Section 104, 42 U.S.C. § 9604, as amended, and Section 3007 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6927, the EPA requests that you respond to the questions set forth in *Enclosure A* attached hereto. Instructions on how to respond to the questions are included in *Enclosure A* as well as definitions that apply to the words appearing in the questions. The EPA encourages you to give this matter your immediate attention and requests that you provide a complete and truthful response to each question **within thirty (30) calendar days** of your receipt of this letter.

While the EPA seeks your cooperation in this investigation, compliance with the Information Request is required by law. **Failure to respond fully and truthfully to the Information Request within thirty (30) calendar days of receipt of this letter, or to adequately justify a failure to respond, may result in the EPA pursuing an enforcement action pursuant to Section 104(e) of CERCLA, as amended, and/or Section 3008 of RCRA.** Each of these statutes permits the EPA to seek the imposition of penalties of up to thirty-two thousand five hundred dollars (\$32,500.00) for each day of continued noncompliance. In addition, please be advised that providing false, fictitious, or fraudulent statements or representation may subject you to criminal penalties under 18 U.S.C. Section §1001. The information you provide may be used by the EPA in administrative, civil, or criminal proceedings.

Submit your responses to the Information Request to Felicia Jackson, Environmental Protection Specialist, at the following address:

United States Environmental Protection Agency  
Region 4, SD-SECEB 11th Floor  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. Section 3501 et seq.

### **ADMINISTRATIVE RECORD**

Pursuant to Section 113(k) of CERCLA, 42 U.S.C. § 9613(k), the EPA has established an administrative record that serves as the basis of the EPA's decision on the selection of the response action for the Site. This administrative record is open to the public for inspection and comment.

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be, and cannot be relied upon as, final EPA positions on any matter set forth herein.

Due to the seriousness of the problem at the Site and the legal ramifications of your failure to respond properly, the EPA strongly encourages you to give this matter immediate attention and to respond to this letter within the time specified above. If you have any general questions regarding this matter, please contact Felicia Jackson, Environmental Protection Specialist, at (404) 562-8894 within 30 days of your receipt of this letter.

The EPA appreciates and looks forward to your prompt response to this matter.

Sincerely,

Felicia Jackson  
Environmental Protection Specialist  
Superfund Enforcement and  
Community Engagement Branch

Enclosures – Definitions Questions  
Frequently Asked Questions

Enclosure A  
Request for Information Pursuant to Section 104 of CERCLA  
David Witherspoon -- Smokey Mountain Smelters Site  
Knoxville, Tennessee

Instructions

1. Please provide a separate narrative response to each and every Question and subpart of a Question set forth in this Information Request.
2. Precede each answer with the number of the Question to which it corresponds.
3. Provide responses to the best of your ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees or agents. Submission of cursory responses when other responsive information is available to you will be considered non-compliance with this Information Request.
4. Please provide your name, current home address, current telephone number, and current e-mail address.
5. For every question contained herein, identify all persons consulted in the preparation of responses.
6. For each and every question contained herein, identify all documents consulted, examined, or referred to in the preparation of the response that contain information responsive to the question, and provide true and accurate copies of all such documents.
7. Provide the name, title, address, and phone number of the individual to whom any future correspondence regarding this matter should be directed.
8. If information or documents not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, you must supplement your response to the EPA. Moreover, should you find, at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify the EPA of this fact as soon as possible and provide the EPA with a corrected response.
9. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question to which it responds and provide true and accurate copies of all such documents.
10. For each and every Question contained herein, identify (see Definitions) all persons consulted in the preparation of the answer.

11. The information requested herein must be provided even though you may contend that it includes possibly confidential information or trade secrets. You may, if you desire, assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. Sections 9604(e)(7)(E) and (F), Section 3007(b) of RCRA, 42 U.S.C. Section 6927(b), and 40 C.F.R. Section 2.203(b).

If you make a claim of confidentiality for any of the information you submit to the EPA, you must prove that claim. For each document or response you claim confidential, you must separately address the following points:

- A. The portions of the information alleged to be entitled to confidential treatment;
- B. The period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- C. Measures taken by you to guard against the undesired disclosure of the information to others;
- D. The extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
- E. Pertinent confidentiality determinations, if any, by the EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
- F. Whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp or type "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all non-confidential information, including any redacted versions of documents are in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by the EPA only to the extent permitted by CERCLA Section 104(e). If no such claim accompanies the information when it is received by the EPA, then it may be made available to the public by the EPA without further notice to you.

12. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy should be segregated from your responses, included on a separate sheet or sheets, and marked as "Personal Privacy Information".
13. If you have objections to some or all the Questions within the Information Request letter, you are still required to respond to each of the Questions.



### Definitions

The following definitions shall apply to the following words as they appear in the Questions:

1. The term "you" or "Respondent" shall mean David Witherspoon, the addressee of this request.
2. The term "person" shall have the same definition as in Section 101(21) of CERCLA: an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body.
3. The terms the "Site" or the "facility" shall mean and include the property known as Smokey Mountain Smelters Superfund Site located in Knoxville, Knox County, Tennessee
4. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA and includes any mixtures of such pollutants and contaminants with any other substances. Petroleum products mixed with pollutants and contaminants are also included in this definition.
5. The term "hazardous waste" shall have the same definition as that contained in Section 1004(5) of RCRA.
6. The term "solid waste" shall have the same definition as that contained in Section 1004(27) of RCRA.
7. The term "material" shall mean any and all objects, goods, substances, or matter of any kind that have been generated, treated, stored, or disposed of or otherwise handled at or transported to the Site, including but not limited to, all hazardous substances, pollutants and contaminants, hazardous wastes and solid wastes, as defined above.
8. The term "hazardous material" shall mean all hazardous substances, pollutants or contaminants, and hazardous wastes, as defined above.
9. The term "non-hazardous material" shall mean all material as defined above, excluding hazardous substances, pollutants and contaminants, and hazardous waste.
10. The term "pollutant or contaminant" shall include, but not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical

deformations; except that the term "pollutant or contaminant" shall not include petroleum

11. The term "identify" means, with respect to a natural person, to set forth: (a) the person's full name; (b) present or last known business and home addresses and telephone numbers; (c) present or last known employer (include full name and address) with title, position or business.
12. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
13. The term "company" shall mean any business entity, however formally or informally organized, which has ever existed, regardless of its current status.
14. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressor, addressee and or recipient, and the substance or the subject matter.
15. The terms "document" and "documents" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreement and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intra office communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc or disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, tape or other type of memory); and (a) every copy of each document which is not an exact duplicate of a document which it produces, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document, and (e) every document referred to in any other document.
16. The term "release" has the same definition as that contained in Section 101(22) of CERCLA, 42 U.S.C. Section 9601(22), and includes any spilling, leaking,

pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.

17. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
18. The term "arrangement" means every separate contract or other agreement between two or more persons.
19. The terms "transaction" or "transact" mean any sale, transfer, giving, delivery, change in ownership, or change in possession.
20. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions.
21. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 C.F.R. Part 300, or 40 C.F.R. Parts 260-280, in which case, the statutory or regulatory definitions shall apply.

## Questions

1. Describe your involvement with each business, operation or other activity conducted at the Site with which you had any connection, providing the time frames within which each such involvement occurred. For each involvement, specify the nature of your role, including but not limited to information regarding ownership of the property or business, title or job description, and details of your activities and responsibilities. For each involvement, identify each company, partnership, corporation, individual partner, associate, employee or agent also involved.
2. For each business, operation or other activity conducted at the Site identified in response to Question 1, provide information regarding the following:
  - a. Nature of operations:
  - b. Description of all manufacturing, treatment or other chemical or physical processes:
  - c. Production volumes and disposition of each product: and
  - d. Volumes and disposition of each waste product or by-product.
3. Provide any RCRA Facility Investigation (RFI) Reports, RCRA Facility Assessments (RFA) Reports, Corrective Measures Studies, Interim Measures Reports, Confirmatory Sampling Reports, Notices of Hazardous Waste Activity, Closure Plans, and Post-Closure Plans, if any, that have been associated with any business, operation or other activity identified in response to Question 1 above.
4. For each business, operation or other activity identified, provide:
  - a. The responsible legal entity (e.g., corporation, partnership, or other association):
  - b. Documentation of winding down, dissolution and distribution of relevant assets:
  - c. Documentation of any associated bankruptcy filing, including a copy of a Statement of Financial Affairs and any other relevant bankruptcy documents.
5. During the period of operation of Smokey Mountain Smelters, what portion of salteake and dross received was recycled, what portion was stored for later processing, and what portion was disposed of?
6. During the period of operation of Rotary Furnace, Inc., what portion of the salteake and dross was recycled, what portion was stored for later processing, and what portion was disposed of?

7. During the period of any other smelting, resmelting or recycling operation at the Site, what portion of the saltcake and dross was recycled, what portion was stored for later processing, and what portion was disposed of?
8. Identify any and all areas both on the Site property and at other locations, which were used for storage and disposal of saltcake, dross and other byproducts and wastes.
9. Identify any and all other substances that were generated or stored at the Site, and any and all other substances that were disposed of either at the Site or at another location. Identify any such other locations used for disposal of any wastes.
10. Identify the origin, treatment and disposition of any and all wastes received from outside sources for disposal at the Site at any time during which you were involved in the business, operations or other activities at the Site. Include in this information solid waste, liquid or gaseous waste, hazardous waste, and any other waste or other product intended for disposal at the Site. Provide all documentation of all related transactions, including but not limited to correspondence, bills, invoices, bills of lading, receipts, and other transactional records.
11. With respect to all persons identified in response to Question 1, identify any who may have knowledge, information or documents about the generation, storage, and disposition of any hazardous material at, to or from the Site.
12. Provide copies of all documents, including but not limited to invoices, receipts, manifests, shipping papers, customer lists, contracts, cancelled checks or other payment records, reports, newsletters, notes, records of telephone conversations, or any other correspondence which may reflect, show, or evidence the generation, storage or disposition of hazardous materials at, to or from the Site.
13. Provide a list of all property and casualty insurance policies (e.g., comprehensive general liability, environmental impairment liability, and automobile liability policies) applicable to each business, operation or other activity identified in response to Question 1. Specify the insurer, policy, effective dates, and state the per occurrence policy limits for each policy. Copies of policies may be provided in lieu of a narrative response.
14. For each and every Question contained herein, if any of the documents solicited in this information request are no longer in your possession, custody, or control, then identify each person from whom such information or documents may be obtained. Also indicate the reason why they are no longer available. If the records were destroyed, provide the following:
  - a. The document retention policy applicable to the document;
  - b. A description of how the records were destroyed (burned, trashed, etc.) and the approximate date of destruction;

- c. A description of the type of information that would have been contained in the documents;
  - d. The name, job title and most current address of each person: who would have produced these documents; who would have been responsible for the retention of these documents; or who would have been responsible for the destruction of these documents; and
  - e. The name and most current address of each person who may possess an original or copy of documents relevant to this inquiry.
15. Identify each additional person not already identified, who may have information responsive to the Questions in this Information Request, and describe the relevant information you believe each may have in his or her possession.
16. Describe your ownership interest and operational role in Smokey Mountain Smelters, Inc., including but not limited to the timeframe of your involvement and the circumstances of termination of involvement.
17. Describe your ownership interest and operational role in Rotary Furnace, Inc., including but not limited to the timeframe of your involvement and the circumstances of termination of involvement. Describe the nature of the relationship between Rotary Furnace, Inc. and Smokey Mountain Smelters, Inc.